

DE 99-185

CONNECTICUT VALLEY ELECTRIC COMPANY

Fuel Adjustment Clause and Purchased Power Adjustment

Order on Motion for Rehearing

O R D E R N O. 23,534

July 21, 2000

I. PROCEDURAL HISTORY

This matter comes before the New Hampshire Public Utilities Commission ("Commission") on the Motion for Rehearing of Connecticut Valley Electric Company's ("CVEC"). On December 30, 1999, the Commission issued Order No. 23,378 in Docket No. DE 99-185, CVEC's Fuel Adjustment Clause ("FAC") and Purchase Power Cost Adjustment ("PPCA") petition. The Commission's Order determined that CVEC's FAC rate of \$0.0059 per kWh and the PPCA rate of \$0.0023 per kWh, currently effective on a temporary basis, remain in effect and be subject to further investigation and reconciliation, until otherwise ordered.

On January 28, 2000, CVEC filed a Motion for Rehearing of this Order. In support of its Motion, CVEC raises the following issues:

1. CVEC claims that the procedure by which the rate levels were originally established in Docket No. DR 97-241 was deficient and that this procedural deficiency is compounded

each time those determinations are relied upon to set the FAC and PPCA rates for another year.

2. The Company argues that it has been taken off of cost-based ratemaking by the Commission's refusal to allow it full recovery of its wholesale power costs (under the RS-2 Rate Schedule), and that the Commission has imposed a market-based requirement under its electric industry restructuring plan (DR 96-150).

3. The Company also argues that the Commission's refusal to allow it to recover its costs under RS-2 violates the federal court's injunction and the "filed-rate" doctrine.

4. CVEC claims that the Commission has issued conflicting rulings, initially ordering it to terminate its wholesale contract with Central Vermont Public Service Company ("CVPS") and subsequently ordering it not to terminate that contract, yet it remains subject to a disallowance of the costs incurred under the contract.

5. CVEC notes that the Final Order in this case did not address its petition in regard to Short Term Rate E or the recoupment of the Rate Rider Refund.

6. Finally, CVEC argues that the Commission lacks jurisdiction to review certain regulatory expenses that are subject to the FERC-regulated wholesale contract and that are

protected by the attorney-client privilege.

II. COMMISSION DISCUSSION

RSA 541:3, and our rules promulgated thereunder, determine the procedure for a motion for rehearing before the Commission. RSA 541:3 provides in pertinent part that

"[w]ithin 30 days after any order...has been made...any party...may apply for a rehearing...*specifying in the motion all grounds for rehearing*, and the commission may grant such rehearing *if in its opinion good reason for the rehearing is stated in the motion.*" (Emphasis supplied).

We have determined that CVEC's Motion for Rehearing was timely filed, and raises sufficient grounds for consideration. We therefore rule as follows:

1. Failure to Address Short Term Rate E:

The Order will be modified to grant approval of CVEC's request regarding Short Term Rate E.

2. Lack of Jurisdiction to Review Certain Regulatory

Expenses:

The Commission finds that there may be merit to the company's arguments on this point, and we will modify our order and not require CVEC to provide the materials at issue.

3. Other Matters:

The Commission will reserve ruling upon the remaining rehearing claims pending a decision by the United

States Court of Appeals for the First Circuit in *Connecticut Valley Electric Company and Central Vermont Public Service Corporation v. Douglas L. Patch, Chairman of the State of New Hampshire Public Utilities Commission, et al.*, No. 00-1460.

Based upon the foregoing, it is hereby

ORDERED, that Order No. 23,378 is modified as follows: CVEC's petition with respect to its request regarding Short Term Rate E is granted; and the Commission withdraws its requirement of an audit of the Company's regulatory commission expenses.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of July, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary